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Attorneys for Defendant FRONTIER AIRLINES, INC.

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

PETER DELVECCHIA, individually and as
next friend of A.D., a Minor,

Plaintiffs,

v.

FRONTIER AIRLINES, INC. and
JOHN DOES 1 through 5, inclusive,

Defendants.

Case No.: 2:19-cv-01322-KJD-NJK

**FRONTIER AIRLINES, INC.'S
RESPONSE TO PLAINTIFFS'
MOTION REGARDING SENSITIVE
SECURITY INFORMATION**

**DEFENDANT FRONTIER AIRLINES, INC.'S RESPONSE TO PLAINTIFFS' MOTION
SEEKING DESIGNATIONS AS COVERED PERSONS UNDER 49 CFR §1520.7**

Defendant, FRONTIER AIRLINES, INC. ("Frontier"), by its undersigned counsel, and for its Response to Plaintiffs' Motion seeking designations of Plaintiff Peter Delvecchia and his counsel as covered persons under 49 CFR §1520.7, states:

Plaintiffs seek from Frontier certain documents that have been marked as containing sensitive security information ("SSI"). Under 49 CFR §1520.5 and 49 CFR §1520.9, Frontier is prohibited from

1 producing such documents to Plaintiffs, unless authorized by the Transportation Security Administration
 2 (“TSA”). Because the documents at issue appear to be relevant and discoverable, Frontier favors
 3 producing such documents to Plaintiffs. The TSA can authorize disclosure of SSI to Plaintiffs under 49
 4 CFR §1520.11 and 49 CFR §1520.15, upon satisfactory completion of a security background check or
 5 other procedures and requirements for safeguarding SSI that are satisfactory to the TSA. *Ibrahim v. Dep’t*
 6 *of Homeland Sec.*, 669 F.3d 983, 999 (9th Cir. 2012); *Office of the People’s Counsel v. PSC of the D.C.*,
 7 21 A.3d 985, 994 n.17 (D.C. 2011).

9 Frontier has submitted the documents at issue to the TSA for an SSI determination. Upon the
 10 TSA’s completing its SSI determination, Plaintiffs can request disclosure of any information determined
 11 to be SSI by following a process established by the TSA. *Id.* Frontier has worked diligently with the
 12 TSA to put Plaintiffs in a position to gain access to the documents at issue. Frontier will continue to
 13 cooperate with Plaintiffs and the TSA regarding efforts to disclose the documents at issue to Plaintiffs.

15 As to Plaintiffs request that Peter Delvecchia and his counsel be designated as covered persons
 16 under 49 CFR §1520.7, Frontier favors Plaintiffs gaining access to the documents at issue. However,
 17 producing such documents without TSA authorization would appear to be a contravention of 49 CFR Part
 18 1520. Notwithstanding, and given that discovery is essentially on hold until the TSA authorizes the
 19 production of the documents at issue, Frontier is not opposed to any Court ruling that may positively
 20 impact the speed at which the TSA completes its SSI determination.

22 DATED March 16, 2020

Respectfully submitted,

FRONTIER AIRLINES, INC.

/s/ Brian T. Maye

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CERTIFICATE OF SERVICE

I hereby certify that on March 16, 2020, I caused the foregoing to be electronically filed with the United States District Court for the District of Nevada using the CM/ECF system.

/s/ Brian T. Maye